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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

09/865,441

05/29/2001

Doug Grumann

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

YIGDALL, MICHAEL J

ART UNIT

PAPER NUMBER

2192

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

02/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|---------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 09/865,441 | Applicant(s) GRUMANN, DOUG | |
| | Examiner Michael J. Yigdall | Art Unit 2192 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is responsive to Applicant's submission filed on December 1, 2006.
Claims 1-6 and 8-20 are pending.

Response to Arguments

2. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection, as set forth below with reference to Wookey. Applicant's amendment necessitated the new ground(s) of rejection.

Nonetheless, in response to Applicant's argument that Barritz does not disclose or suggest enabling an administrator to manually edit the already generated, existing inventory file and performance management tools configuration file (remarks, page 6), it is first noted that Barritz expressly discloses enabling a user to manipulate (i.e., "manually edit") the information recorded in the system configuration log (see, for example, column 9, lines 29-40).

Furthermore, as Applicant notes, the apparatus of Barritz can survey, monitor and report on a user-specified list of products (remarks, page 6). The list of products on which the reporting program reports is derived from the system configuration log (see, for example, column 8, lines 36-42). The surveying program generates the system configuration log (see, for example, column 9, lines 27-33). Thus, a user specifying the list of products on which to report is functionally the same as the user amending or editing the existing list of products that the surveying program already generated.

Moreover, Barritz states that the system configuration log, the knowledge base and the recorded information log are all "general collections of information" that "may be stored in a

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single file or ... [in] separate files” (column 5, lines 35-40). Accordingly, where Barritz further states, “Also for example, knowledge base 20 can be supplemented by information provided by the user,” (column 11, lines 21-22), Barritz in fact suggests to one of ordinary skill in the art that the user can similarly supplement the system configuration log.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,590,056 to Barritz (art of record, “Barritz”) in view of U.S. Patent No. 6,301,615 to Kutcher (art of record, “Kutcher”) in view of U.S. Patent No. 6,272,677 to Lam et al. (art of record, “Lam”), in view of Wookey (now made of record, “Wookey”).

With respect to claim 1 (currently amended), Barritz discloses a method for automatically configuring performance management software in a computer system (see, for example, the abstract), comprising:

(a) inventorying applications (see, for example, column 9, lines 23-27, which shows a surveying program 12 for inventorying executable files or applications);

(b) generating an inventory list of the applications (see, for example, column 9, lines 27-33, which shows generating a system configuration log 66 or inventory list of the applications).

Although the monitoring and reporting programs disclosed by Barritz (see, for example, monitoring program 22 and reporting program 60 in FIG. 1) and other such performance management tools are inherently executable files, Barritz is silent as to whether any of the executable files included in the inventory are performance management tools.

However, Kutcher discloses a method for configuring performance management software (see, for example, column 10, lines 23-43) based on a plurality of preexisting performance management tools (see, for example, column 2, lines 30-34 and column 4, lines 26-30). Kutcher further discloses listening for or inventorying newly started performance management tools, so as to include the additional tools in the configuration (see, for example, column 10, line 64 to column 11, line 11). By leveraging the performance management tools provided by the operating system, the need for updates due to changes in the operating system is reduced (see, for example, column 4, lines 38-52).

One of ordinary skill in the art would have been motivated to apply the method of Barritz to a plurality of preexisting performance management tools, such as taught by Kutcher. For example, Barritz discloses that different operating systems provide different mechanisms by which monitoring program 22 can “see” events (see, for example, column 7, lines 51-55). In view of Kutcher, a plurality of such monitoring programs would be provided for the different mechanisms provided by the different operating systems. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the performance management tools in the inventory.

Although Barritz also discloses that the inventory provides system configuration information to the reporting program 60 (see, for example, column 8, lines 36-42), and thus the

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system configuration log 66 is considered to be a performance management tools configuration, Barritz does not expressly disclose:

(c) using the inventory list, generating a performance management tools configuration consisting of application-specific interfaces, performance thresholds, collection parameters and alarms applicable to specific performance management tools and the current operating system environment.

However, Kutcher further discloses that the configuration includes filters (see, for example, column 10, lines 23-43), which are application-specific interfaces for each performance management tool (see, for example, column 8, lines 43-48). The filters or interfaces enable the use of performance management tools that have disparate output formats (see, for example, column 5, lines 22-26 and column 6, lines 10-14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the configuration generated by Barritz with application-specific interfaces, such as taught by Kutcher. The modification would enable the use of a plurality of preexisting performance management tools that have disparate output formats.

Moreover, Barritz also discloses that the monitoring program 22 may be configured to monitor whether the licensed number of users has been exceeded and to issue a warning message (see, for example, column 10, line 50 to column 11, line 3). The number of concurrent users permitted and the warning message are considered a performance threshold and an alarm, respectively. Likewise, Barritz also discloses that the monitoring program 22 may be configured to operate constantly or for a sampling period (see, for example, column 9, lines 55-62), which is considered a collection parameter. It would have been obvious to one of ordinary skill in the art

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at the time the invention was made to include the performance threshold, alarm and collection parameter in the configuration.

Although Barritz also discloses restarting the performance management software to engage the configuration of the performance management tools (see, for example, FIG. 6, which shows engaging the configuration at step 310 each time the reporting program is started or restarted at step 300, and note that the reporting program is inherently restarted to engage the latest configuration after the surveying program itself is restarted, as in column 4, lines 56-63), Barritz does not expressly disclose:

(d) automatically restarting, without intervention of an administrator, the performance management software to engage the configuration of the performance management tools.

However, Lam discloses automatically restarting software to engage a new configuration of the software (see, for example, column 4, lines 12-40), so as to eliminate the need for manual intervention (see, for example, column 4, lines 40-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the method of Barritz such that the restarting step is performed automatically, as taught by Lam. One of ordinary skill in the art would have been motivated to eliminate the need for manual intervention.

Although Barritz also suggests manually editing the generated inventory list and the generated performance management tools configuration (see, for example, column 11, lines 16-25), Barritz does not expressly disclose:

(e) enabling the administrator to manually edit the generated inventory list and the generated performance management tools configuration differently for each installed application and performance management tool, and according to the current operating system environment.

However, Wookey discloses enabling an administrator to manually edit test schemas to configure performance management tools (see, for example, column 8, lines 52-67). The administrator is able to manually edit previously generated test schemas (see, for example, column 14, lines 30-34), which differ based on the installed applications and performance management tools and the current operating system environment (see, for example, column 11, lines 25-32). The administrator is thus provided with control over the configuration of the performance management tools (see, for example, column 11, lines 19-24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the method of Barritz to enable the administrator to manually edit the generated inventory list and the generated performance management tools configuration differently for each installed application and performance management tool, and according to the current operating system environment, as Wookey suggests. One of ordinary skill in the art would have been motivated to provide the administrator with control over the automatic configuration of the performance management tools.

With respect to claim 2 (original), the rejection of claim 1 is incorporated, and Barritz also discloses the limitation wherein the method is executed upon start up of the computer system (see, for example, column 4, lines 53-56, which shows executing the method when it is first introduced on a computer system, i.e. upon start up of the computer system).

With respect to claim 3 (original), the rejection of claim 1 is incorporated, and Barritz also discloses the limitation wherein the method is executed on demand (see, for example, column 4, lines 50-53, which shows executing the method by an operator or interactive user, i.e. on demand).

With respect to claim 4 (original), the rejection of claim 1 is incorporated, and Barritz also discloses the limitation wherein the method is executed periodically (see, for example, column 4, lines 50-53, which shows executing the method periodically).

With respect to claim 5 (original), Barritz also discloses the limitation wherein the method is executed automatically (see, for example, column 4, lines 50-53, which shows executing the method by another program, i.e. automatically).

With respect to claim 6 (original), the rejection of claim 1 is incorporated. Although Barritz discloses writing the inventory such that the information can be displayed and manipulated by well-known programs (see, for example, column 9, lines 34-40), Barritz does not expressly disclose the limitation wherein the step of generating the inventory list comprises writing inventory information to an ASCII-format file. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the inventory of Barritz as an ASCII-format file, so as to further ensure that the information can be displayed and manipulated by well-known programs.

With respect to claim 8 (original), the rejection of claim 1 is incorporated, and Barritz also discloses the limitation wherein the inventory step comprises inventorying installed

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application programs and installed performance management tools (see, for example, column 9, lines 27-29, which shows surveying or inventorying products installed on the computer system).

With respect to claim 9 (original), the rejection of claim 8 is incorporated, and Barritz also discloses inventorying active application programs and active performance management tools, wherein the active application programs and performance management tools are flagged to indicate an active status (see, for example, column 6, lines 58-65, which shows recording or inventorying active programs and an indication of whether the program is loaded from a library or is resident, i.e. an indication of the active status or a flag indicating the active status).

With respect to claim 10 (currently amended), the rejection of claim 1 is incorporated, and Barritz also discloses:

(a) repeating the step of generating the performance management tools configuration (see, for example, column 11, line 63 to column 12, line 4, which shows repeating the step of generating the system configuration log).

With respect to claim 11 (original), the rejection of claim 1 is incorporated, and Barritz also discloses storing the inventory list and the performance management tools configuration in a memory (see, for example, column 5, lines 35-40, which shows storing the system configuration log in memory).

With respect to claims 12 (currently amended) and 13-18 (original), the claims recite an apparatus that corresponds to the method recited in claims 1, 2, 4-6 and 8-10 (see the rejection of claims 1, 2, 4-6 and 8-10 above).

With respect to claims 19 (currently amended) and 20 (original), the claims recite a method that corresponds to the method recited in claims 1 and 8-10 (see the rejection of claims 1 and 8-10 above).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure (see the attached Notice of References Cited).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Yigdall whose telephone number is (571) 272-3707. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

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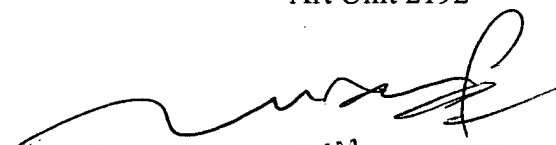
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MY

Michael J. Yigdall
Examiner
Art Unit 2192

mjy



TUAN DAM
SUPERVISORY PATENT EXAMINER